

Attorney Docket No.: 2003P04174US01

Application No: 10/805,520

Page 8 of 11

REMARKS

The Office Action dated 14 October 2005 has been reviewed, and the comments of the U.S. Patent Office have been considered. Claims 1, 16, 18 and 19 were previously canceled without prejudice or disclaimer; claim 2 has been amended to correct a typographical error, claims 17 and 20-30 were previously presented, and claims 3-15 and 21 remain as originally presented. Thus claims 2-15, 17 and 20-30 are submitted for reconsideration.

Claim 2 was objected to by the Examiner because of a typographical error, which has been corrected in accordance with the Examiner's helpful suggestion. It is respectfully submitted that the objection to claim 2 should be withdrawn.

Claims 2-10, 17, 20-21, and 24-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Publication No. 01-219319 to Suzuki Motor Co. Ltd. ("Suzuki") in view of U.S. Patent No. 5,184,773 to Everingham. And claims 11-15 and 22-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of Everingham, and further in view of U.S. Patent No. 4,026,464 to Doherty, Jr. ("Doherty"). These rejections are respectfully traversed in view of the following comments.

Independent claim 20 recites a fluid flow controller including, *inter alia*, "a first fluid flow path passing air from the turbocharger through the inlet port, through the chamber and out the first outlet port to the wastegate;" "a second outlet port providing fluid communication between the chamber and the atmosphere, a second fluid flow path passing air from the turbocharger through the inlet port, through the chamber and out the second outlet port to the atmosphere;" and a valve being movable with respect to the body between a "a first configuration substantially occluding the second fluid flow path and permitting generally unrestricted fluid flow along the first fluid flow path" and a "second configuration substantially occluding the first fluid flow path and permitting generally unrestricted fluid flow along the second fluid flow path." Independent claim 25 recites a system of boosting atmospheric air density that also includes, *inter alia*, similar features. And independent claim 28 recites a method of controlling a wastegate that includes, *inter alia*, "sending a control signal from the fluid flow controller to the wastegate, the sending including providing a first portion of the air supplied from the turbocharger to the fluid flow controller;" "discharging to the atmosphere a second portion of the air supplied from the turbocharger to the fluid flow controller;" and

Attorney Docket No.: 2003P04174US01
Application No: 10/805,620
Page 9 of 11

"proportioning the first and second portions of the air." Support for these combinations of features may be found in Applicant's specification as originally filed at, for example, paragraphs 0017, 0022 and 0027.

The Office Action alleges that Suzuki's shows a fluid flow controller 60 that includes an inlet port via 61, a first outlet port via line 56, and a second outlet port via 58, i.e., a total of three ports. This interpretation of Suzuki is respectfully traversed. It is respectfully submitted that Suzuki's valve 60 is shown with only two ports, i.e., via 61 and via 58, and that Suzuki's valve 60 does not control flow via 56. For example, Suzuki's valve 60 is not movable between a configuration that substantially occludes fluid flow via 58 and another configuration that substantially occludes fluid flow via 56. This deficiency, and several others, of Suzuki are acknowledged in the Office Action.

The Office Action relies on Everingham "to have disposed the valve head in the chamber" and "the valve being movable with respect to the body between a first configuration, a second configuration, and a plurality of intermediate configurations." However, Everingham shows "a proportional solenoid controlled heater valve for an automobile heater" (Abstract of the Disclosure). It is respectfully submitted that even if Everingham's heater control valve could be combined with Suzuki's system, a proposition that Applicant does not accept, the combination would still fail to teach or suggest Applicant's claims for at least three reasons. First, there is no suggestion as to how Everingham's valve would be connected to Suzuki's passages - Everingham shows three ports 14, 16, 18 whereas Suzuki shows only two passages 56, 58. There is simply no suggestion as to how one of ordinary skill in the art would connect Everingham's valve in Suzuki's system, much less why one of ordinary skill in the art would apply proportional control to the flow via Suzuki's passage 56. Second, Suzuki's system is directed to prevent damage to the engine by controlling the pressure acting on a pressure chamber of an actuator of a waste gate valve through a control valve so that the supercharging pressure converges on a preset value. *See* abstract. Everingham is directed to diverting coolant flow to a heater core (*See* Everingham at column 4, lines 29-37). And third, neither Suzuki nor Everingham teach or suggest that a portion of the fluid flows being controlled be discharged to atmosphere - Suzuki shows a closed air flow between the passages 56, 58 and Everingham is directed to a recirculating flow of coolant.

Attorney Docket No.: 2003P04174US01
Application No: 10/805,520
Page 10 of 11

As such, it is respectfully submitted that Suzuki and Everingham, whether considered individually or in combination, fail to teach or suggest each and every feature of recited in Applicant's independent claims 20, 25 and 28. For example, Suzuki and Everingham fail to teach or suggest alternative valve configurations that occlude different flow paths (as recited in Applicant's independent claims 20 and 25); proportioning an air supply between two air portions (as recited in Applicant's independent claim 28); and discharging to atmosphere a portion of air supplied by a turbocharger (as recited in Applicant's independent claims 20, 25 and 28).

For at least any of the above reasons, it is respectfully submitted that neither Suzuki nor Everingham, whether considered individually or in combination, teach or suggest the combinations of features recited in Applicant's independent claims 20, 25 and 28. Thus, the rejections under 35 U.S.C. § 103(a) of claims 20, 25 and 28 should be withdrawn, and it is respectfully submitted that these claims are allowable over the applied prior art.

Claims 2-10, 17, 21, 24, 26, 27, 29 and 30 depend, directly or indirectly, from one of the independent claims 20, 25 and 28, and therefore recite the same allowable combinations of features, as well as reciting additional features that further distinguish over the applied prior art. Thus, it is respectfully submitted that the rejections under 35 U.S.C. § 103(a) of claims 2-10, 17, 21, 24, 26, 27, 29 and 30 should be withdrawn, and that these claims also are allowable over the applied prior art.

While not applied against any of Applicant's independent claims, the Office Action relies on Doherty to allegedly suggest particular structural details of a valve head. It is respectfully submitted that Doherty fails to overcome the aforementioned deficiencies of Suzuki and Everingham.

Claims 11-15 and 20-23 depend, directly or indirectly, from independent claim 20, and therefore recite the same allowable combinations of features, as well as reciting additional features that further distinguish over the applied prior art. Thus, it is respectfully submitted that the rejections under 35 U.S.C. § 103(a) of claims 11-15 and 20-23 should be withdrawn, and that these claims also are allowable over the applied prior art.

Attorney Docket No.: 2003P04174US01
Application No: 10/805,520
Page 11 of 11

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration of this Application and the prompt allowance of claims 2-15, 17 and 20-30.

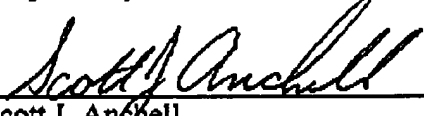
Should the Examiner feel that there are any issues outstanding after consideration of this reply, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution of the application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 08-1641. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

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Respectfully submitted,



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